

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

LORI ANN MORRIS,

Plaintiff,

vs.

FLORIDA TRANSFORMER, EDWARD
NEAL THOMPSON, et al.,

Defendants.

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CIVIL ACTION NO.3:05cv962-T

MOTION FOR LEAVE TO FILE
AMENDED MOTION FOR SUMMARY JUDGMENT
AND DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE

COME NOW the Defendants, Edward Neal Thompson ("Thompson") and Florida Transformer, Inc. ("FTI") (collectively referred to as "Defendants"), and hereby move the Court for leave to file the Amended Motion for Summary Judgment on Behalf of All Defendants ("Amended Motion") and Defendants' Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment and Brief in Support of Amended Motion ("Defendants' Reply"), both of which are being filed contemporaneously herewith and as grounds, therefore state as follows:

1. Defendants filed their original Motion for Summary Judgment ("Original Motion") on 6/7/06 in compliance with the Court's Scheduling Order, despite the fact that very little discovery had been completed at that time, no depositions had been taken, and the Plaintiff had just filed on 6/1/06 her Amended Complaint with additional claims and allegations, including over 30 allegations of Federal Motor Carrier Safety Regulation ("FMCSR") violations.

2. Defendants requested in the Original Motion (p. 3, footnote 2) that if the Court allowed the Amended Complaint, then it should extend the dispositive motion deadline, due to the fact that discovery was in its early stages, and Defendants had just received the Amended Complaint with multiple new allegations and claims.

3. This request was denied by the Court during the 6/16/06 teleconference hearing on Defendants' Second Motion for More Definite Statement ("Second Motion"), but the Court advised the parties that it would wait and see what was filed by the Plaintiff in response to Defendants' Original Motion before taking further action.

4. Defendants had filed on 6/15/06 Defendants' Reply to Plaintiff's Response to Second Motion requesting, among other things, that the Court strike the Amended Complaint because it was filed after the Scheduling Order deadline for amending the pleadings, and more than five months after the 12/21/05 deadline imposed by the Court for the Plaintiff to file a more definite statement of its claims related to FMCSR violations, or continue the trial of this case set for 10/23/06, including the dispositive motion deadline.

5. Plaintiff filed on 6/24/06 Plaintiff's Response to Defendants' Motion for Summary Judgment ("Plaintiff's Response") basing much of her argument on the alleged FMCSR violations in the Amended Complaint.

6. Since the filing of Defendants' Original Motion and the 6/16/06 hearing, the depositions of Thompson, William Tidwell, Scott Seay, Sgt. James D. Patterson, Plaintiff Lori Ann Morris, and her experts, Edward L. Robinson and Andre LeBleu have been taken. Testimony from these depositions has provided additional facts, and has

clarified and confirmed other facts, that further support Defendants' position that they are entitled to summary judgment as a matter of law. In addition, they have addressed the plethora of alleged FMCSR violations, all of which are without merit, and which need to be further addressed for the Court.

7. For the above reasons, Defendants need leave to file their Amended Motion and Defendants' Reply to fully address all issues raised in Plaintiff's Response and in the depositions.

WHEREFORE, Defendants respectfully request the Court to enter an Order granting Defendants leave to file the Amended Motion and Defendants' Reply, which present additional evidence and arguments in support of Defendants' Original Motion for Summary Judgment as to all claims in the Complaint and the Amended Complaint.

Respectfully submitted,

/s/ Richard E. Broughton
Richard E. Broughton

/s/ W. Evans Brittain
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CERTIFICATE OF SERVICE

I hereby certify that on this August 15, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Manual Notice List

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